

DRAFT MINUTES

(SUBJECT TO APPROVAL OF STATE HOUSING APPEALS BOARD)

STATE HOUSING APPEALS BOARD

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Minutes of the July 27, 2006 Board Meeting

The State Housing Appeals Board (“SHAB” or the “Board”) held a public meeting on July 27, 2006 at Warwick City Hall.

ATTENDANCE

The following Board members attended the meeting: Chairwoman Mary Shekarchi, Charles Maynard, Cynthia Fagan, Donald Goodrich, Steve Ostiguy, M. Teresa Santos and William White. Steven M. Richard, legal counsel to the Board, was also present.

Chairwoman Shekarchi called the meeting to order at 2:05 p.m.

AGENDA ITEMS

1. Approval of Minutes of SHAB's April 11 and April 25, 2006 meetings.

Mr. Goodrich made a motion, which Mr. White seconded, to accept the minutes of the April 11 and April 25, 2006 meetings as presented.

The motion passed unanimously.

2. Docket Update by SHAB's Legal Counsel

Mr. Richard informed the Board of a recent change to the Low and Moderate Income Housing Act regarding judicial review of SHAB decisions.

Mr. Richard advised the Board that the Town of West Greenwich has filed an appeal in the Rhode Island Supreme Court challenging SHAB's decision in S.W.A.P. vs. The Zoning Board of Review for the Town of West Greenwich.

Mr. Richard also informed the Board that it will address in September 2006 an appeal entitled Highland Hills, LLP vs. The Zoning Board of Review for the Town of Cumberland, a matter which had been before SHAB previously.

3. Women's Development Corporation vs. The Local Review Board of The Town of Richmond, SHAB # 2005-5

SHAB addressed the merits of Women's Development Corporation ("WDC") vs. The Local Review Board of the Town of Richmond. In a decision dated December 13, 2005, the Local Review Board allowed WDC to construct 33 units with conditions. In its appeal to SHAB, WDC contended that the Local Review Board's decision was actually a denial of the comprehensive permit application. The subject property, located in the village of Shannock in Richmond (Assessor's Plat 10D, Lot 46), is comprised of 63.74 acres. In its comprehensive permit application, WDC proposed to build a total of 53 units. The proposed development would be known as "Altamonte Ridge."

SHAB received detailed briefs from the parties regarding the merits of the appeal. The briefs are available for public inspection upon request. SHAB heard oral arguments by the following counsel: Robert Berkelhammer on behalf of WDC, Michael Cozzolino on behalf of the Town of Richmond, and Cynthia Gifford on her own behalf as an abutter.

Counsel's oral arguments centered on the following material issues: (1) whether the Town of Richmond's Affordable Housing Plan should

be reviewed as part of SHAB's adjudication of the appeal, (2) whether a development containing fewer than the 53 units proposed was economically feasible and consistent with local needs, (3) when does alteration of a proposal by the Local Review Board constitute a denial, (4) whether the road layout proposed by WDC was adequate to serve the needs of the development, and (5) whether the evidence presented at the local public hearings supported the Local Review Board's approval of only 33 units instead of the 53 units proposed by WDC.

On the matter of the proper characterization of the Local Review Board's decision (an approval with conditions versus a denial), Mr. Goodrich moved that SHAB should treat the Local Review Board's decision as a denial. Mr. Maynard seconded the motion. Ms. Shekarchi, Ms. Santos, Mr. White and Mr. Ostiguy voted in favor of the motion. Ms. Fagan voted against it.

On the matter of whether the Town of Richmond had an approved affordable housing plan as of the date WDC's comprehensive permit application, Mr. Goodrich moved that there was no approved affordable housing plan in existence at the time of the application. Ms. Shekarchi seconded the motion. The motion passed unanimously.

On the matter of whether the Local Review Board's rulings were consistent with the Town's Comprehensive Plan, Mr. Goodrich moved

that the Local Review Board's rulings actions did not conform to the Comprehensive Plan. Mr. White seconded the motion. Ms. Shekarchi, Mr. Ostiguy, Mr. Maynard and Ms. Santos voted in favor of the motion. Ms. Fagan voted against it.

On the matter of whether the Town has met the 10% affordable housing goal, Mr. Ostiguy moved that the Town has not met the statutory goal. Mr. White seconded the motion. The motion passed unanimously.

On the matter of whether the Local Review Board's decision was consistent with the promotion of affordable housing, Mr. Ostiguy moved that the decision was inconsistent with the Town's ongoing efforts to promote affordable housing. Mr. White seconded the motion. Ms. Shekarchi, Mr. Maynard, Ms. Santos voted in favor of the motion. Ms. Fagan voted against it.

On the matter of reasonableness of the Town's conclusion that the WDC project proposed posed health and safety risks to residents, the Chair moved that the Town made unreasonable determinations and that WDC had presented sufficient evidence addressing health and safety issues. Mr. Goodrich seconded the motion. The motion passed unanimously.

On the matter of the Town's ruling that WDC's proposal did not contain adequate environmental protections, Mr. White moved that

the Town's decision was inconsistent with testimony and that WDC had presented proof of adequate environmental protections. Mr. Maynard seconded the motion. The motion carried unanimously.

On the matter of whether the Local Review Board's applied its review procedures evenly to WDC's subsidized housing application and in the same manner that it would review non-subsidized housing applications, Mr. White moved that there was no record evidence to indicate that the WDC's project was treated unfairly or differently from a standard, non-subsidized project. Ms. Shekarchi seconded the motion. The motion carried unanimously.

On the matter of whether the Local Review Board's decision was consistent with local needs, Mr. Ostiguy moved that the Local Review Board's decision was inconsistent with local needs. Mr. Goodrich seconded the motion. The motion carried unanimously.

Discussion ensued concerning the burden of proof that WDC had met in order to merit master plan approval. The Board members discussed the Local Review Board's decision and SHAB's option to attach conditions to a master plan approval. Mr. Goodrich moved to vacate the Local Review Board's decision and grant master plan approval to WDC's proposal. Mr. White seconded the motion. Ms. Shekarchi, Mr. Maynard, Ms. Santos voted in favor of the motion. Ms. Fagan voted against it.

SHAB's determinations resulted in the reversal of the Local Review Board's decision and the granting of Master Plan Level approval to WDC's comprehensive permit application. SHAB remanded the matter back to the Planning Board for preliminary and final plan reviews.

ADJOURNMENT

A motion to adjourn passed unanimously, and the meeting ended at 5:30 p.m.

Respectfully submitted,

Mary B. Shekarchi
Chairwoman